



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P (MD)No.23119 of 2019

and

W.M.P (MD) .Nos.19838, 19840 and 19841 of 2019

1.R.Sharmila
2.N.Chellappan

.. Petitioners

Vs.

1.State Industries Promotion Corporation
of Tamil Nadu Limited,
Represented by its Managing Director,
Rukmani-Lakshmipathy Road,
Egmore,
Chennai-600 008.

2.State Industries Promotion Corporation,
of Tamil Nadu Limited,
Represented by its Chief Engineer,
Rukmani-Lakshmipathy Road,
Egmore,
Chennai-600 008.

3.State Industries Promotion Corporation
of Tamil Nadu Limited,
Represented by its Project Officer,
SIPCOT Industrial Complex,
Manamadurai
Sivagangai District.

4.State Industries Promotion Corporation
of Tamil Nadu Limited,
Represented by its Project Officer,
SIPCOT Industrial Complex,
Tuticorin.

5.State Industrial Promotion Corporation,
of Tamil Nadu Limited,
Represented by its Project Officer,
SIPCOT Industrial Complex,



6.State Industries Promotion Corporation
of Tamil Nadu Limited,
Represented by its Project Officer
SIPCOT Industrial Complex,
Nilakkottai,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Certiorari, Calling for the records of the 1st respondent floating tender in tender notice Ref.NIT No.22/CW/DO/T No.32/2019-20 dated 04.10.2019 inviting bids for upkeep and maintenance of 19 SIPCOT Industrial Complexes/Parks/Growth Centres for a period of three years, during the subsistence of agreement dated 12.12.2018, 31.12.2018, 18.01.2019, 02.11.2018 entered into between the petitioners and the respondents 3 to 6 regarding maintenance of SIPCOT Industrial Complexes situated at Manamadurai, Tuticorin, Pudukottai and Nilakkottai respectively and quash the same.

For Petitioners : M/s.S.Senthil

For Respondents : Mr.S.R.Rajagopal
Additional Advocate General,
assisted by Mr.E.Manoharan,
Additional Government Pleader

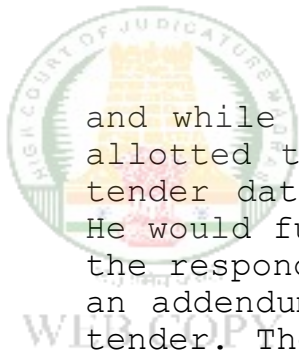
ORDER

Heard the learned counsel appearing for the petitioners and the learned Additional Advocate General appearing for the respondents.

2.It is contended by the petitioners that the petitioners are the successful bidders in the tender called for by the respondents for upkeep the maintenance of SIPCOT Industrial Complex/Parks/Growth Centres for a period of three years in respect of Manamadurai, Tuticorin, Pudukottai and Nilakkottai areas.

3.According to the petitioner, the respondents and the petitioners have entered into an agreement on 12.12.2018, 31.12.2018, 18.01.2019 and 02.11.2018 respectively, which is valid for a period of three years. Since the respondent without terminating the agreement or tender, in favour of the petitioner invited new tenders for the same areas vide Notification dated 04.10.2019. Aggrieved by which, the petitioner is before this Court.

4.On notice, the learned Additional Advocate General appearing for the respondents would submit that the works allotted to the petitioner through the said agreement, will not be interfered



and while processing the new tender, they will exclude those areas allotted to the petitioner and they will go ahead with the other tender dated 04.10.2019, in respect of other industrial complexes. He would further submit that as per Clause 9 of the Tender Document, the respondent is empowered to modify the tender document by issuing an addendum or a corrigendum at any time before the opening of the tender. The respondents are willing to issue a corrigendum in this regard within a period of one week from today.

5. In paragraphs No.4, 5 and 6 of the affidavit filed by the first respondent, signed by the Deputy General Manager(Law), is extracted hereunder:

"4. It is respectfully submitted that the work done by the petitioner under the current Contract includes maintenance of water supply, street light, maintenance of Administrative Block etc., Whereas the tender dated 04.10.2019, apart from the latter includes other comprehensive works such as Security, Housekeeping, OSR maintenance, Garbage cleaning, maintenance of electrical system etc., This comprehensive Annual Maintenance Contract (AMC) has been brought under this tender keeping in line with the State Governments initiative and a policy decision to attract foreign investment and to provide advanced facilities to such foreign companies that seek to set up units in Tamil Nadu especially within SIPCOT. Such better services extended by SIPCOT will attract more investors to the State and therefore also bring in more employment opportunities.

5. It is respectfully submitted that subsequently, the tender dated 04.10.2019 is to be modified to exclude the works done by the petitioners under their existing contract with SIPCOT, since there is an urgency and without prejudice to any rights. The modified tender will include works, not performed by the petitioners under their respective contract. Therefore, the modified tender will not affect the works being performed by the petitioners.

6. It is respectfully submitted that in the light of the above subsequent decision, the Writ Petition and the prayer sought after therein will become infructuous. The agreement entered with the petitioners will be performed and governed under the terms and conditions mentioned therein and in accordance with law.

6. In view of the undertaking given by the respondents, the petitioner's rights are protected and they can continue with the tender as per subsisting contract for Industrial Parks / Complexes / Growth Centres for a period of three years in respect of Manamadurai, Tuticorin, Pudukottai and Nilakkottai areas.



7. In view of the above, the prayer sought for by the petitioner is granted and the writ petition is ordered accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Managing Director,
State Industries Promotion Corporation
of Tamil Nadu Limited,
Rukmani-Lakshmipathy Road,
Egmore,
Chennai-600 008.

2. The Chief Engineer,
State Industries Promotion Corporation,
of Tamil Nadu Limited,
Rukmani-Lakshmipathy Road,
Egmore,
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3. The Project Officer,
State Industries Promotion Corporation
of Tamil Nadu Limited,
SIPCOT Industrial Complex,
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State Industrial Promotion Corporation,
of Tamil Nadu Limited,
SIPCOT Industrial Complex,
Pudukottai.



6.The Project Officer
State Industries Promotion Corporation
of Tamil Nadu Limited,
SIPCOT Industrial Complex,
Nilakkottai,
Dindigul District.

+5 CC to M/s.S.S. SENTHIL, Advocate (SR-97901 & 97837 [F] dated
13/11/2019)

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and
W.M.P (MD) .Nos.19838, 19840 and 19841 of 2019
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JMN(13.11.2019) 5P : 12C